IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10509 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MB AMRUTIA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
NOTICE SERVED for Petitioner(s) : 1,MR CB DASTOOR for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 07/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order quashing and setting aside the order of penalty of reversion of the

petitioner from the post of Police Inspector (PI) to the post of Police Sub Inspector (PSI) at the lowest/minimum of the time scale of the post of PSI (the time scale of the post of PSI which was payable as on 1-7-1972, the date of initial appointment).

2. It appears from the record that the petitioner at the relevant time was serving as PI; complaint was filed against him for illegal gratification; departmental inquiry was initiated against him; petitioner was served with the charge sheet and thereafter, on conclusion of the departmental inquiry, the respondent No.2 having held that the charges levelled against the petitioner are proved, petitioner was served with the show cause notice dated 19-12-1994 by which the petitioner was called upon to show cause why an order of punishment should not be imposed upon the petitioner reverting the petitioner to the post of PSI in the minimum of pay scale for two years. The petitioner replied to the said show cause notice and considering the same, the Director General and Inspector General of Police, Gujarat State passed the impugned order dated 5-1-1996 reverting the petitioner from the post of PI to the post of PSI at the lowest/ minimum of the time scale of the post of PSI for one

year. It appears that being aggrieved by the order dated 5-1-1996, the petitioner preferred an appeal/revision before the Appellate Authority and the Deputy Secretary, Home Department, State of Gujarat by its order dated 9-8-1996 dismissed the said revision application confirming the order of penalty.

3. It is required to be noted that during the pendency of the present Special Civil Application, there was no interim relief granted by this Court on the order of punishment for a period of one year. This Special Civil Application came up for hearing before the learned Single Judge of this Court on 25-3-1997 and the learned advocate at the relevant time stated that the petitioner might have served the period of penalty and the petition may therefore, have become infructuous and therefore he took time to receive instruction. Today, when the matter is called out, Ms Maithili Mehta, learned AGP under the instruction from the officer, has submitted that the petitioner has already served the period of penalty and the petitioner is at present serving as PI at Dhrangadhra City Police Station. Thus, in view of the above, present Special Civil Application has become infructuous.

4. Even, otherwise considering the affidavit-in-reply, the Disciplinary Authority held the charges of illegal gratification against the petitioner proved and imposed the penalty. Not only that but revision application preferred by the petitioner against the impugned order of reversion also came to be confirmed by the revisional authority. Having gone through the charge levelled against the petitioner, the finding and the fact that charge of illegal gratification was proved against the petitioner and more particularly in view of the fact that the petitioner has served the period of penalty, the petition requires dismissal.

5. Hence, the petition is dismissed. Rule is discharged. Ad interim relief if any stands vacated. No costs.

(M.R.SHAH,J.)

shekhar/-